



#3

P/2167-229

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

J. Robert Hitchings et al.

Date: October 19, 2001

Serial No.: 09/828,616

Group Art Unit: Not Yet Assigned

Filed: April 6, 2001

Examiner: Not Yet Assigned

For: LIKE KIND EXCHANGE SYSTEM AND METHOD

Box DAC

Asst. Commissioner for Patents

Washington, D.C. 20231

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OFFICE OF PETITIONS**PETITION UNDER 37 C.F.R. 1.47**

Sir:

Inventors J. Robert Hitchings, Todd Orlich and Edward Bossong hereby petition under 37 C.F.R. §1.47(a) on behalf of themselves and on behalf of inventor Joseph Schreiner, who refuses to sign the application, that the application be accepted.

Accompanying this petition is a declaration by Robert A. Stewart together with proof of pertinent facts. Mr. Stewart is an employee of The Chase Manhattan Bank, the assignee of the present application, and is responsible for maintaining Chase's patent portfolio. The attached declaration describes the diligent efforts conducted by the assignee in attempting to have the non-signing inventor join in the application, and provides the requisite proof of pertinent facts therefore.

The last known address of the non-signing inventor is:

Joseph Schreiner
1020 Pennsylvania Avenue
Island Park, New York 11558

Enclosed is Check No. 6956 for \$1,700.00 which includes fees for the Late Declaration, Petition and Four-month Extension of Time. In the event payment of any fee is inadvertently not enclosed, or if any additional fee during the prosecution of this case is not paid, the Patent

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and Trademark Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

The inventors and/or the assignee, having complied with the requirements of 37 U.S.C. §116, second paragraph, and 37 C.F.R. §1.47(a), respectfully request that this petition be granted.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Asst. Commissioner for Patents, Washington, D.C. 20231, on October 19, 2001:

Respectfully submitted,

Brendan J. Kennedy
Name of applicant, assignee or
Registered Representative
Brendan J. Kennedy
Signature
October 19, 2001
Date of Signature

Brendan J. Kennedy
Brendan J. Kennedy
Registration No.: 41,890
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700

BJK:gl

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#5

P/2167-229

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Robert J. Hitchings, et al.

Date: October 17, 2001

Serial No. : 09/828,616

Group Art Unit: 2161

Filed : April 6, 2001

Examiner: Unassigned

For : LIKE KIND EXCHANGE SYSTEM

Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION OF ROBERT STEWART
IN SUPPORT OF PETITION UNDER 37 C.F.R. 1.47

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Sir:

I, Robert A. Stewart, declare as follows:

1. I am an employee of The Chase Manhattan Bank ("Chase"), the assignee of the present application, and my duties include maintaining Chase's Patent Portfolio.

2. I am attorney registered to practice before the United States Patent and Trademark Office (Reg. No. 45,683).

3. I have been administratively responsible for obtaining the inventor's signatures on the Declaration and Assignment documents in connection with this application.

4. At the time of the invention, which is the subject matter of this application (Serial No. 09/828,616), inventor Joseph Schreiner was an employee of Chase. The invention resulted from work performed for Chase by several inventors, including inventor Joseph Schreiner, as employees of Chase. As an employee of Chase, Mr. Schreiner was, and still is, under an obligation to assign all of his rights in the invention to Chase. Mr. Schreiner is currently an employee under long term disability for a physical ailment.

5. On or about April 15, 2001, at my direction, Edward Bossong (co-inventor) forwarded a copy of the specification, claims, and drawings as filed with the U.S. Patent and Trademark Office on April 6, 2001 to Mr. Schreiner. Mr. Bossong also forwarded an assignment form and declaration to Mr. Schreiner. Mr. Bossong indicated to me that he requested that Mr. Schreiner execute the assignment form and declaration once he had a reasonable time to review the application. On or about June 7, 2001, Mr. Schreiner responded to Mr. Bossong via telephone. During this telephone call, Mr. Schreiner indicated to Mr. Bossong that he refused to execute the assignment form or declaration.

6. On or about June 15, 2001, Mr. Bossong informed me that Mr. Schreiner refused to execute either the assignment form or declaration.

7. On July 6, 2001, I sent a letter to Mr. Schreiner enclosing a copy of the specification, claims, and drawings for this application along with an assignment form and declaration. In the letter, I requested that Mr. Schreiner execute the assignment form and declaration, after he had a reasonable opportunity to review the application.

8. On July 30, 2001, I sent a second letter to Mr. Schreiner enclosing a copy of the specification, claims, and drawings for this application along with an assignment form and declaration. In the letter, I again requested that Mr. Schreiner execute the assignment form and declaration, after he had a reasonable opportunity to review the application.


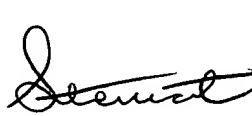
9. On August 2, 2001, I spoke with Mr. Schreiner via telephone. During this telephone conversation, Mr. Schreiner continued to refuse to sign either the declaration or assignment form.

10. U.S. Patent Application Serial No. 09/828,616 is based on and claims priority to Provisional Patent Application Serial No. 60/195,056.

17. To date, inventor Joseph Schreiner has refused to execute the Declaration and Assignment forms with respect to this application.

18. I further declare that all statements made herein are of my own knowledge, are true, and that all statements made on information or belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this declaration, this application or any registration resulting therefrom.

Dated: October 17, 2001

By:  
Robert A. Stewart

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Robert A. Stewart
Assistant Vice President and Counsel
Legal Department



July 6, 2001

Via Airborne - #4222903624

Joseph Schreiner
1020 Pennsylvania Avenue
Island Park, NY 11558

Re: P2167-229; CN#275; CC#12495; Family#99678;
Like Kind Exchange System and Method

I'm writing to you to address your concerns regarding the execution of the assignment form and declaration for the above-referenced patent application (LKE application).

In mid April of 2001, Edward Bossong forwarded a copy of the LKE application along with an assignment form and declaration to your attention. Mr. Bossong requested that you execute the assignment form and declaration once you had a reasonable time to review the LKE application. In response, you conveyed some concerns regarding ownership rights in the LKE application and additional compensation for your contribution to the conception of the invention.

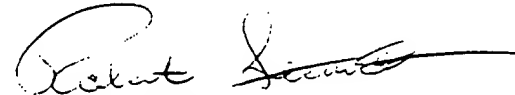
I have attached the J.P.Morgan Chase, Intellectual Property And Confidential And Proprietary Information Policy. This is substantively identical to the policy that was in place during your employment with The Chase Manhattan Bank. The policy explicitly states, "All inventions, discoveries, developments, concepts, ideas, processes or works, written or otherwise, whether or not they can be patented or copyrighted, that you develop alone or with others ("Invention(s)"), during your employment with J.P.Morgan Chase, directly or indirectly related to the business of J.P.Morgan Chase are owned by J.P.Morgan Chase and are considered J.P.Morgan Chase Inventions." Additionally, the policy states, "You further...agree to deliver any documents as may be requested to assure, record or perfect your assignment of the J.P.Morgan Chase Inventions to J.P.Morgan Chase."

The policy entitles no employees or former employees an ownership interest to any inventions conceived during their employment with The Chase Manhattan Bank if those inventions, directly or indirectly, related to the business of the Bank. Additionally, no employee or former employee is entitled to any additional compensation solely for his or her contribution to any inventions owned by The Chase Manhattan Bank. We therefore request, pursuant to the attached policy, that you execute the assignment form and declaration Edward Bossong forwarded to your attention.

I have attached another copy of the LKE application. I hope after you have had a reasonable opportunity to review the application and the above policy you will execute the assignment form and declaration. Please return the forms to my attention at the address below. For your convenience, I have enclosed a self-addressed prepaid Airborne envelope to facilitate the delivery of the documents.

If you have any questions or concerns, please do not hesitate to call me.

Sincerely,



Robert A. Stewart

RAS/pg
Atts.

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Robert A. Stewart
Assistant Vice President and Counsel
Legal Department



July 30, 2001

Via Airborne - #6826624884

Joseph Schreiner
1020 Pennsylvania Avenue
Island Park, NY 11558

Re: P2167-229; CN#275; CC#12495; Family#99678;
Like Kind Exchange System and Method

Dear Mr. Schreiner:

I'm writing to you for the second time (see attached letter from J.P. Morgan Chase to Joseph Schreiner dated July 6, 2001) to address your concerns regarding the execution of the assignment form and declaration for the above-referenced patent application (LKE application).

In mid April of 2001, Edward Bossong forwarded a copy of the LKE application along with an assignment form and declaration to your attention. Mr. Bossong requested that you execute the assignment form and declaration once you had a reasonable time to review the LKE application. In response, you conveyed some concerns regarding ownership rights in the LKE application and additional compensation for your contribution to the conception of the invention.

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If you have any questions or concerns, please do not hesitate to call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert A. Stewart".

Robert A. Stewart

RAS/pg
Atts.

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UNITED STATES OF AMERICA COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION			OFCS FILE NO. P/2167-229
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119
			YES ___ NO
			YES ___ NO
			YES ___ NO
			YES ___ NO
			YES ___ NO
			YES ___ NO
			YES ___ NO
			YES ___ NO
			YES ___ NO
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.			
FULL NAME OF THIRD JOINT INVENTOR, IF ANY Joe SCHREINER		INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY Edward BOSSONG		INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY		INVENTOR'S SIGNATURE	DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			

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UNITED STATES OF AMERICA COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION			OFGS FILE NO. P/2167-229																																											
<p>As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that I verily believe that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named) of the subject matter which is claimed and for which a patent is sought on the invention entitled:</p> <p>LIKE KIND EXCHANGE SYSTEM AND METHOD</p> <p>the specification of which is attached hereto, unless the following box is checked:</p> <p><input type="checkbox"/> was filed on _____ as United States patent Application Number or PCT International patent application number _____ and was amended on _____ (if any).</p> <p>I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.</p> <p>I acknowledge the duty to disclose all information known to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.</p> <p>I hereby claim priority benefits under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate or United States provisional application(s) listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:</p> <p>Prior Foreign or Provisional Application(s)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">COUNTRY</th> <th style="width: 25%;">APPLICATION NUMBER</th> <th style="width: 25%;">DATE OF FILING (day, month, year)</th> <th style="width: 25%;">PRIORITY CLAIMED UNDER 35 U.S.C. 119</th> </tr> </thead> <tbody> <tr> <td>United States of America</td> <td>60/195,056</td> <td>April 6, 2000</td> <td>YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td>YES <input type="checkbox"/> NO <input type="checkbox"/></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td>YES <input type="checkbox"/> NO <input type="checkbox"/></td> </tr> </tbody> </table> <p>I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">UNITED STATES APPLICATION NUMBER</th> <th style="width: 33%;">DATE OF FILING (day, month, year)</th> <th style="width: 34%;">STATUS (patented, pending, abandoned)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>I hereby appoint customer no. 2352 OSTROLENK, FABER, GERB & SOFFEN, LLP, and the members of the firm, Samuel H. Weiner - Reg. No. 18,510; Jerome M. Berliner - Reg. No. 18,653; Robert C. Faber - Reg. No. 24,322; Edward A. Meilman - Reg. No. 24,735; Stanley H. Lieberstein - Reg. No. 22,400; Steven I. Weisburd - Reg. No. 27,409; Max Moskowitz - Reg. No. 30,576; Stephen A. Soffen - Reg. No. 31,063; James A. Finder - Reg. No. 30,173; William O. Gray, III - Reg. No. 30,944; Louis C. Dujmich - Reg. No. 30,625; Douglas A. Miro - Reg. No. 31,643, and Michael J. Scheer - Reg. No. 34,425, as attorneys with full power of substitution and revocation to prosecute this application, to transact all business in the Patent & Trademark Office connected therewith and to receive all correspondence.</p> <p>SEND CORRESPONDENCE TO: OSTROLENK, FABER, GERB & SOFFEN, LLP 1180 AVENUE OF THE AMERICAS NEW YORK, NEW YORK 10036-8403 CUSTOMER NO. 2352</p> <p>DIRECT TELEPHONE CALLS TO: (212) 382-0700</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;">FULL NAME OF SOLE OR FIRST INVENTOR J. Robert HITCHINGS</td> <td style="width: 30%;">INVENTOR'S SIGNATURE</td> <td style="width: 30%;">DATE</td> </tr> <tr> <td colspan="2">RESIDENCE (City and either State or Foreign Country)</td> <td>COUNTRY OF CITIZENSHIP</td> </tr> <tr> <td colspan="3">POST OFFICE ADDRESS</td> </tr> <tr> <td>FULL NAME OF SECOND JOINT INVENTOR (if any) Todd ORLICH</td> <td>INVENTOR'S SIGNATURE</td> <td>DATE</td> </tr> <tr> <td colspan="2">RESIDENCE (City and either State or Foreign Country) 73 Plymouth St., Metuchen, NJ 07042</td> <td>COUNTRY OF CITIZENSHIP USA</td> </tr> <tr> <td colspan="3">POST OFFICE ADDRESS</td> </tr> </table>				COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119	United States of America	60/195,056	April 6, 2000	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>				YES <input type="checkbox"/> NO <input type="checkbox"/>				YES <input type="checkbox"/> NO <input type="checkbox"/>	UNITED STATES APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)							FULL NAME OF SOLE OR FIRST INVENTOR J. 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COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119																																											
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As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that I verily believe that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

LIKE KIND EXCHANGE SYSTEM AND METHOD

the specification of which is attached hereto, unless the following box is checked:

☐ was filed on _____ as United States patent Application Number or PCT International patent application number _____ and was amended on _____ (if any).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim priority benefits under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate or United States provisional application(s) listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign or Provisional Application(s)

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119
United States of America	60/195,056	April 6, 2000	YES <input checked="" type="checkbox"/> NO
			YES <input type="checkbox"/> NO
			YES <input type="checkbox"/> NO

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SEND CORRESPONDENCE TO: OSTROLENK, FABER, GERB & SOFFEN, LLP DIRECT TELEPHONE CALLS TO:
1180 AVENUE OF THE AMERICAS (212) 382-0700
NEW YORK, NEW YORK 10036-8403
CUSTOMER NO. 2352

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR J. Robert HITCHINGS		INVENTOR'S SIGNATURE	DATE
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FULL NAME OF THIRD JOINT INVENTOR, IF ANY Joe SCHREINER	INVENTOR'S SIGNATURE		DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY Edward BOSSONG	INVENTOR'S SIGNATURE <i>Edward Bossong</i>		DATE 4-18-2001
RESIDENCE (City and either State or Foreign Country) Hicksville, New York		COUNTRY OF CITIZENSHIP United States of America	
POST OFFICE ADDRESS 186 Cottage Blvd Hicksville, New York 11801			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY	INVENTOR'S SIGNATURE		DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY	INVENTOR'S SIGNATURE		DATE
RESIDENCE (City and either State or Foreign Country)		COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS			

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COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

OFGS FILE NO.

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As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that I verily believe that I am the original, first and sole inventor (if only one name is listed below) or joint inventor (if plural inventors are named) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

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			YES ___ NO
			YES ___ NO

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

UNITED STATES APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby appoint customer no. 2352 OSTROLENK, FABER, GERB & SOFFEN, LLP, and the members of the firm, Samuel H. Weiner - Reg. No. 18,510; Jerome M. Berliner - Reg. No. 18,653; Robert C. Faber - Reg. No. 24,322; Edward A. Meilman - Reg. No. 24,735; Stanley H. Lieberstein - Reg. No. 22,400; Steven I. Weisburd - Reg. No. 27,409; Max Moskowitz - Reg. No. 30,576; Stephen A. Soffen - Reg. No. 31,063; James A. Pinder - Reg. No. 30,173; William O. Gray, III - Reg. No. 30,944; Louis C. Dujmich - Reg. No. 30,625; Douglas A. Miro - Reg. No. 31,643, and Michael J. Scheer - Reg. No. 34,425, as attorneys with full power of substitution and revocation to prosecute this application, to transact all business in the Patent & Trademark Office connected therewith and to receive all correspondence.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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